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11.10 SHORELAND PROTECTION ORDINANCE

a) STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE AND TITLE

1. STATUTORY AUTHORIZATION. This ordinance is adopted pursuant to the authorization in ss. 59.692 Wis. Stats to implement 59.69, 59.692, 59.694, 87.30, 236.45, and 281.31.
2. FINDING OF FACT. Uncontrolled use of the shorelands and pollution of the navigable waters of Jefferson County will adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The legislature of Wisconsin has delegated responsibility to the counties to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; and to preserve shore cover and natural beauty. This responsibility is hereby recognized by Jefferson County, Wisconsin.
3. PURPOSE AND INTENT. NR115.01 For the purpose of promoting the public health, safety, convenience and welfare, and promote and protect the public trust in navigable waters this ordinance has been established to:
 - a. **FURTHER THE MAINTENANCE OF SAFE AND HEALTHFUL CONDITIONS AND PREVENT AND CONTROL WATER POLLUTION THROUGH:**
 - 1) Limiting structures to those areas where soil and geological conditions will provide a safe foundation.
 - 2) Establishing minimum lot sizes to provide adequate area for private on-site waste treatment systems.
 - 3) Controlling filling and grading to prevent soil erosion problems.
 - 4) Limiting impervious surfaces to control runoff which carries pollutants.
 - b. **PROTECT SPAWNING GROUNDS, FISH AND AQUATIC LIFE THROUGH:**
 - 1) Preserving wetlands and other fish and aquatic habitat.
 - 2) Regulating pollution sources.
 - 3) Controlling shoreline alterations, dredging and lagooning.
 - c. **CONTROL BUILDING SITES, PLACEMENT OF STRUCTURES AND LAND USES THROUGH:**
 - 1) Prohibiting certain uses detrimental to the shoreland-wetlands.
 - 2) Setting minimum lot sizes and widths.
 - 3) Setting minimum building setbacks from waterways.
 - 4) Setting the maximum height of near shore structures.
 - d. **PRESERVE AND RESTORE SHORELAND VEGETATION AND NATURAL SCENIC BEAUTY THROUGH:**
 - 1) Restricting the removal of natural shoreland cover.
 - 2) Preventing shoreline encroachment by structures.
 - 3) Controlling shoreland excavation and other earth moving activities.
 - 4) Regulating the use and placement of boathouses and other structures.
4. TITLE. Shoreland Protection Ordinance for Jefferson County, Wisconsin.

b) GENERAL PROVISIONS.

- 1. AREAS TO BE REGULATED.** Areas regulated by this ordinance shall include all the lands (referred to herein as shorelands) in the unincorporated areas of Jefferson County which are located in:

a) **Zoning Districts.** The following districts shall be permitted within the shoreland area to the extent that they are not prohibited by any other ordinance provisions. Districts are specifically described in Section 11.04(f) of this ordinance. The floodplain provisions are described in Jefferson County Floodplain Ordinance No. 14. Districts are:

1. R-1 Residential – Sewered
2. R-2 Residential – Unsewered
3. B-Business
4. I-Industrial
5. A-T Agricultural Transition
6. A-1 Exclusive Agricultural
7. A-2 Agricultural and Rural Business
8. A-3 Agricultural/Rural Residential
9. C-Community
10. W-Waterfront
11. S-Shoreland - Wetland (Overlay Zone)
12. N-Natural Resource
13. R/R-Residential/Recreational

- b) **Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages. (NR 115.03(8))**

Lakes, ponds or flowages in Jefferson County shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources publication FH-800 2009 “Wisconsin Lakes” book available electronically at the following web site:

<http://dnr.wi.gov/org/water/fhp/lakes/lakemap/> or are shown on United States Geological Survey quadrangle maps (1:24,000 scale), or other zoning base maps.

- c) **Within three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. (NR 115.03(8))**

Rivers and streams in County shall be presumed to be navigable if they are designated as perennial waterways or intermittent waterways on United States Geological Survey quadrangle maps (1:24,000). Flood hazard boundary maps, flood insurance rate maps, flood boundary-floodway maps, county soil survey maps or other existing county floodplain zoning maps shall be used to delineate floodplain areas

- d) The provisions of this chapter apply to regulation of the use and development of unincorporated shoreland areas, and to annexed or incorporated areas as provided in s. 59.692 (7), Stats. Unless specifically exempted by law, all cities, villages, towns, counties and, when s. 13.48 (13), Stats., applies, state agencies are required to comply with, and obtain all necessary permits under, local shoreland ordinances. The construction, reconstruction, maintenance or repair of state highways and bridges carried out under the direction and supervision of the Wisconsin Department of transportation is not subject to local shoreland zoning ordinances if s. 30.2022 (1), Stats., applies. (NR 115.02)
- e) Determinations of navigability and ordinary high-water mark location shall initially be made by the zoning administrator. When questions arise, the zoning administrator shall contact the appropriate office of the Department for a final determination of navigability or ordinary high-water mark.
- f) Under s. 281.31(2m) Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, this shoreland zoning ordinance does not apply to lands adjacent to farm drainage ditches if:
1. Such lands are not adjacent to a natural navigable stream or river;
 2. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
 3. Such lands are maintained in nonstructural agricultural use.
2. **SHORELAND-WETLAND MAPS** The Wisconsin Wetland Inventory maps, their County GIS representation, and revisions thereto approved on ____ (April 26, 1984) are made part of this ordinance. They are on file in the office of the zoning administrator for Jefferson County.
3. **COMPLIANCE**. (NR 115.04) The use of any land, the size, shape and placement of lots, the use, size, type and location of structures on lots, the installation and maintenance of water supply and waste disposal facilities, the filling, grading, lagooning, dredging of any lands, the cutting of shoreland vegetation, the subdivision of lots, shall be in full compliance with the terms of this ordinance and other applicable local, state or federal regulations. Buildings and other structures shall require a permit unless otherwise expressly excluded by a provision of this ordinance. Property owners, builders and contractors are responsible for compliance with the terms of this ordinance
4. **FLOODPLAIN STRUCTURES** (NR 115.05(1)(b)2.) Buildings and structures to be constructed or placed in a floodplain shall be required to comply with any applicable floodplain zoning ordinance.
5. **MUNICIPALITIES AND STATE AGENCIES REGULATED**. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to

comply when s. 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when s. 30.2022(1) Wis. Stats., applies.

6. **ABROGATION AND GREATER RESTRICTIONS.** (s. 59.692(5) Wis. Stats.) The provisions of this ordinance supersede all the provisions of any county zoning ordinance adopted under s. 59.692, Wis. Stats., which relate to shorelands. However, where an ordinance adopted under a statute other than s. 59.692, Wis. Stats., is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- a) (s. 59.692(2)(a), Wis. Stats.) This ordinance shall not require approval or be subject to disapproval by any town or town board.
 - b) (s. 59.692(2)(b), Wis. Stats.) If an existing town ordinance relating to shorelands is more restrictive than this ordinance or any amendments thereto, the town ordinance continues in all respects to the extent of the greater restrictions but not otherwise.
 - c) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.
 - d) The following provisions of the Jefferson County Zoning Ordinance are hereby incorporated by reference; these provisions shall only apply to the shoreland area where they impose greater restrictions than this ordinance otherwise imposes.
7. **INTERPRETATION.** (59.69(13) In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the county and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin Statutes. Where a provision of this ordinance is required by a standard in ch. NR 115, Wis. Adm. Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the ch. NR 115 standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.
8. **SEVERABILITY.** If any portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

c) **SHORELAND-WETLAND DISTRICT.** (NR 115.04)

1. **DESIGNATION.** This district shall include all shorelands within the jurisdiction of this ordinance which are designated as wetlands on the Wisconsin Wetland Inventory maps that are adopted and made a part of this ordinance.
- a) **LOCATING SHORELAND-WETLAND BOUNDARIES.** (NR 115.04(b)2.note)
Where an apparent discrepancy exists between the shoreland-wetland district boundary shown on the Wisconsin Wetland Inventory maps and actual field conditions, the county shall contact the Department to determine

if the map is in error. If the Department determines that a particular area was incorrectly mapped as wetland or meets the wetland definition but was not shown as wetland on the map, the county shall have the authority to immediately grant or deny a shoreland zoning permit in accordance with the applicable regulations based on the Department determination as to whether the area is wetland. In order to correct wetland mapping errors on the official zoning map, an official zoning map amendment must be initiated within a reasonable period of time.

2. **PURPOSE.** This district is created to maintain safe and healthful conditions, to prevent water pollution, to protect fish spawning grounds and wildlife habitat, to preserve shore cover and natural beauty and to control building and development in wetlands whenever possible. When development is permitted in a wetland, the development should occur in a manner that minimizes adverse impacts upon the wetland.
3. **PERMITTED USES.** (NR 115.04(3)) The following uses shall be allowed, subject to general shoreland zoning regulations contained in this ordinance, the provisions of chs. 30, 31, 281.36 and 281.37, Wis. Stats. and the provisions of other applicable local, state and federal laws:
 - a) Activities and uses which do not require the issuance of a zoning permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavating except as allowed under sections 11.10(h)3(a) or 11.10(h)3(b).
 1. Hiking, fishing, trapping, hunting, swimming, and boating;
 2. The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
 3. The pasturing of livestock;
 4. The cultivation of agricultural crops;
 5. The practice of silviculture, including the planting, thinning, and harvesting of timber; and
 6. The construction or maintenance of duck blinds.
 - b) Uses which do not require the issuance of a zoning permit and which may include limited filling, flooding, draining, dredging, ditching, tiling, or excavating but only to the extent specifically provided below:
 1. Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected;
 2. The cultivation of cranberries including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries,
 3. The maintenance and repair of existing agricultural drainage systems including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue the

existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system provided that dredged spoil is placed on existing spoil banks where possible;

4. The construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
5. The construction or maintenance of piers, docks or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance; and
6. The maintenance, repair, replacement or reconstruction of existing town and county highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.

c) Uses which require the issuance of a zoning permit and which may include limited filling, flooding, draining, dredging, ditching, tiling or excavating, but only to the extent specifically provided below:

1. The construction and maintenance of roads which are necessary to conduct silvicultural activities or agricultural cultivation, provided that:
 - a. The road cannot as a practical matter be located outside the wetland;
 - b. The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland enumerated in section 11.10(c)5(b);
 - c. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
 - d. Road construction activities are carried out in the immediate area of the roadbed only.
2. The construction or maintenance of nonresidential buildings, provided that:
 - a. The building is essential for and used solely in conjunction with the raising of waterfowl, minnows or other wetland or aquatic animals; or some other use permitted in the shoreland-wetland district;
 - b. The building cannot, as a practical matter, be located outside the wetland;
 - c. Such building is not designed for human habitation and does not exceed 500 sq. ft. in floor area; and
 - d. Only limited filling or excavating necessary to provide structural support for the building is authorized.
3. The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, fish

hatcheries, and public boat launching ramps and attendant access roads, provided that:

- a. Any private development is used exclusively for the permitted use and the applicant has received a permit or license under ch. 29, Wis. Stats., where applicable;
- b. Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria in section 11.10 (c)3(c)1 and;
- c. Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, and fish hatcheries is allowed only for the purpose of improving wildlife habitat and to otherwise enhance wetland values.

4. The construction or maintenance of electric, gas, telephone, water and sewer transmission and distribution facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members and the construction or maintenance of railroad lines provided that:
 - a. The transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;
 - b. Such construction or maintenance is done in a manner designed to minimize adverse impact upon the natural functions of the wetland enumerated in section 11.10 (c)5(b).

4. **PROHIBITED USES.** NR 115.04(4) Any use not listed in sections 11.10 (c)3(a) , 11.10(c)3(b) or 11.10 (c)3(c) is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this ordinance in accordance with section 11.10 (c)5 of this ordinance and s. 59.69(5)(e), Wis. Stats.

5. **REZONING OF LANDS IN THE SHORELAND-WETLAND DISTRICT** (NR 115.04(2))

a)For all proposed text and map amendments to the shoreland-wetland provisions of this ordinance, the appropriate office with the Department shall be provided with the following:

1. A copy of every petition for a text or map amendment to the shoreland-wetland provisions of this ordinance, within 5 days of the filing of such petition with the county clerk. Such petition shall include a copy of the Wisconsin Wetland Inventory map adopted as part of this ordinance describing any proposed rezoning of a shoreland-wetland;
2. Written notice of the public hearing to be held on a proposed amendment at least 10 days prior to such hearing;
3. A copy of the county zoning agency's findings and recommendations on each proposed amendment within 10 days after

the submission of those findings and recommendations to the county board; and

4. Written notice of the county board's decision on the proposed amendment within 10 days after it is issued.

b) A wetland, or a portion thereof, in the shoreland-wetland district shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:

1. Storm and flood water storage capacity;
2. Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland;
3. Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
4. Shoreline protection against soil erosion;
5. Fish spawning, breeding, nursery or feeding grounds;
6. Wildlife habitat; or
7. Wetlands both within the boundary of designated areas of special natural resource interest and those wetlands which are in proximity to or have a direct hydrologic connection to such designated areas as defined in NR 103.04 which can be accessed at the following web site: <http://www.legis.state.wi.us/rsb/code/nr/nr103.pdf>.

c) If the Department notifies the county zoning agency that a proposed text or map amendment to the shoreland-wetland provisions of this ordinance may have a significant adverse impact upon any of the criteria listed in section 11.10 (c)5(b) of this ordinance, that amendment, if approved by the county board, shall contain the following provision:

"This amendment shall not take effect until more than 30 days have elapsed after written notice of the county board's approval of this amendment is mailed to the Department of Natural Resources. During that 30-day period the Department of Natural Resources may notify the county board that it will adopt a superseding shoreland ordinance for the county under s. 59.692(6), Wis. Stats. If the Department does so notify the county board, the effect of this amendment shall be stayed until the s. 59.692(6) adoption procedure is completed or otherwise terminated."

d) **LAND DIVISION REVIEW AND SANITARY REGULATIONS (NR 115.05(2))**

1. **LAND DIVISION REVIEW.** (NR 115.05(2))The county shall review, pursuant to s. 236.45, Wis. Stats., all land divisions in shoreland areas which create 3 or more parcels or building sites of 5 acres each or less within a 5-year period. In such review all of the following factors shall be considered:
 - a) Hazards to the health, safety or welfare of future residents
 - b) Proper relationship to adjoining areas.
 - c) Public access to navigable waters, as required by law.
 - d) Adequate stormwater drainage facilities.

e) **Conformity to state law and administrative code provisions.**

2. Multiple Dwelling Unit Structures, established as a planned development. (NR 115.05(1)(a)4.)

a) **PURPOSE.** Multiple dwelling unit structures, established as a planned development is intended to permit smaller non-riparian lots where the physical layout of the lots is so arranged as to better assure the control of pollution and preservation of ground cover than would be expected if the lots were developed with the normal lot sizes and setbacks and without special conditions placed upon the multiple dwelling unit structures, established as a planned development at the time of its approval. A condition of all multiple dwelling unit structures, established as a planned development is the preservation of certain open space, preferably on the shoreland, in perpetuity.

b) **REQUIREMENTS FOR MULTIPLE DWELLING UNIT STRUCTURE, ESTABLISHED AS A PLANNED DEVELOPMENT.** The Planning and Zoning Committee may at its discretion, upon its own motion or upon petition, approve a multiple dwelling unit structure, established as a planned development upon finding, after a public hearing, that all of the following facts exist:

1. **Area.** The area proposed for the multiple dwelling unit structure, established as a planned development shall be at least 2 acres in size or have a minimum of 200 feet of frontage on a navigable water.
2. **Lots.** Any proposed lot in the multiple dwelling unit structure, established as a planned development that does not meet the minimum size standards of Section 11.10 (e)2 and 11.10 (e)3 shall be a non-riparian lot.
3. **Vegetative buffer zone and preservation of ground cover.** The location of lots and the dedication of part of the land for use by the public or residents of the multiple dwelling unit structure, established as a planned development shall preserve the vegetative buffer zone and ground cover of the shoreland to enhance scenic beauty of the navigable water, prevent erosion, and provide wildlife habitat. In cases where the vegetative buffer does not exist it shall be reestablished according to mitigation standards of 11.10 (I). All lands not used for lots and streets shall be dedicated in perpetuity to remain in open space. This may be accomplished by conveyance in common to each of the owners of lots in the development or to a corporation formed by them, or by dedication to the county, town or municipality. Lands dedicated to the public must be accepted by action of the governing body of the accepting unit of government. If the land is to be conveyed to owners of lots in the development, a homeowner's association or similar legally constituted body shall be created to maintain the open space land. Any restriction placed on platted land by covenant, grant of easement or any other manner which was required by a public body or which names a public body

as grantee, promise or beneficiary, shall vest in the public body the right to enforce the restriction at law or in equity against anyone who has or acquires an interest in the land subject to the restriction.

4. **Density.** The number of platted lots shall not exceed those which would have been possible if the same land were platted in accordance with the minimum lot sizes and widths provided by the applicable provisions of the zoning ordinance. This figure shall be determined by dividing the total area of the subdivision by the minimum lot size required by Section 11.10 (e) of this ordinance.
5. **Lot sizes, widths, setbacks, and vegetation removal.** When considering approval of a multiple dwelling unit structure, established as a planned development the governing body shall consider whether proposed lot sizes, widths, and setbacks are of adequate size and distance to prevent pollution or erosion along streets or other public ways and waterways. Increased shoreland setbacks shall be a condition of approval as a way of minimizing adverse impacts of development. Shore cover provisions in Section 11.10 (g) shall apply except that maximum width of a lake frontage opening shall be 100 feet and minimum vegetative buffer depth shall be increased to offset the impact of the proposed development.

3. **SANITARY REGULATIONS** (NR 115.05(3)) Each county shall adopt sanitary regulations for the protection of health and the preservation and enhancement of water quality.

- a) Where public water supply systems are not available, private well construction shall be required to conform to ch. NR 812, Wis. Adm. Code.
- b) Where a public sewage collection and treatment system is not available, design and construction of private on-site waste treatment system shall, prior to July 1, 1980, be required to comply with ch. Comm 83, and after June 30, 1980 be governed by a private sewage system ordinance adopted by the county under s. 59.70(5), Wis. Stats.

e) **MINIMUM LOT SIZE** (NR 115.05(1))

1. **PURPOSE** (NR115.05(1)(a)) Minimum lot sizes in the shoreland area shall be established to afford protection against danger to health, safety and welfare, and protection against pollution of the adjacent body of water.
 - a) In calculating the minimum area or width of a lot, the beds of navigable waters shall not be included.
2. **'Sewered lots.'** (NR 115.05(1)(a)1.) **MINIMUM AREA AND WIDTH FOR EACH LOT.** The minimum lot area shall be 10,000 sq. ft. and the minimum average lot width shall be 80 feet.
3. **'UNSEWERED LOTS.'** (NR 115.05(1)(a)2.) **MINIMUM AREA AND WIDTH FOR EACH LOT.** The minimum lot area shall be 20,000 sq. ft. and the minimum average lot

width shall be 100 feet with at least 100 feet of frontage at the ordinary high-water mark.

4. **SUBSTANDARD LOTS** (NR 115.05(1)(a)3.) A legally created lot or parcel that met minimum area and minimum average width requirements when created, but does not meet current lot size requirements, may be used as a building site if all of the following apply:
 - a) The substandard lot or parcel was never reconfigured or combined with another lot or parcel by plat, survey, or consolidation.
 - b) The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
 - c) The substandard lot or parcel is developed to comply with all other ordinance requirements.
5. **OTHER SUBSTANDARD LOTS**. Except for lots which meet the requirements of sections 11.10 (e)4 a zoning permit for the improvement of a lot having lesser dimensions than those stated in sections 11.10 (e)2 and 11.10 (e)3 shall be issued only if a variance is granted by the board of adjustment.
- f) **BUILDING/STRUCTURE SETBACKS**. (NR 115.05(1)(b)) Permitted building or structure setbacks shall be established to conform to health, safety and welfare requirements, preserve natural beauty, reduce flood hazards and avoid water pollution.
1. **SHORELAND SETBACK**. (NR115.05(1)(b)1.) Unless exempt under 11.10 (f)2, or reduced under 11.10 (f)3, a setback of 75 feet from the ordinary high-water mark of any navigable waters to the nearest part of a building or structure, including overhang, shall be required for all buildings and structures.
 - a) **Patio**: For the purpose of Section 11.10 Shoreland Provisions, patios are classified as a structure. They shall be setback at least seventy-five (75) feet from the ordinary high-water mark whether poured-in-place, prefabricated, patio block, brick or stone.
 - b) **Fences**: For the purpose of Section 11.10 Shoreland Provisions, fences are classified as structures. They shall be setback at least seventy-five (75) feet from the ordinary high-water mark except for open fences used for agricultural practices.
 - c) **Retaining walls/Structural Erosion Control Measures**: Retaining walls shall be set back at least seventy-five (75) feet from the ordinary high-water mark of a navigable body of water. Retaining walls may be located within the required setback, if the Zoning Administrator determines that retaining walls are necessary to abate a known and identified erosion problem. If the Zoning Administrator determines that retaining walls are necessary for erosion control, the retaining walls shall be screened with vegetation and designed to be visually inconspicuous (earth tone colors) when viewed from the water.
2. **EXEMPT STRUCTURES** (NR 115.05(1)(b)1m.) All of the following structures are exempt from the shoreland setback standards in subd 11.10 (f)1:

a) Boathouses located entirely above the ordinary high-water mark and entirely within the access and viewing corridor that do not contain plumbing and are not used for human habitation.

- 1. The use of boathouses for human habitation and the construction or placing of boathouses beyond the ordinary high-water mark of any navigable waters shall be prohibited.**
- 2. Boathouses shall be designed and constructed solely for the storage of boats and related equipment.**
- 3. One boathouse is permitted on a lot as an accessory structure.**
- 4. Boathouses shall not be constructed where the existing slope is more than 20%.**
- 5. A boathouse shall not exceed four hundred (400) square feet in area.**
- 6. Maximum height of 10 feet.**
- 7. Roof slope may not be less than 2:12 (rise to run). Boathouse roofs shall not be designed or used as decks, observation platforms or for other similar uses.**
- 8. A boathouse must be located within the viewing and access corridor described in Section 11.10 (e)(2)(e).**
- 9. Must meet Floodplain Ordinance provisions as defined in Section 14 of this ordinance. Boathouses are not permitted in the floodway.**
- 10. No roof canopies permitted.**
- 11. No plumbing permitted.**
- 12. An application for a zoning permit for construction of a new boathouse under this section requires mitigation under Section 11.10(l).**
- 13. Marinas and commercial boathouses shall have an ordinary high-water mark setback as determined by the Committee.**
- 14. An application for a zoning for construction of a new boathouse shall meet the requirements of Section 11.10(i).**

b) Open sided and screened structures such as gazebos, decks, patios and screen houses in the shoreland setback area that satisfy the requirements in s. 59.692(1v), Stats.

- 1. The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary-high water mark.**
- 2. The floor area of all the structures in the shoreland setback area will not exceed 200 square feet.**
- 3. The structure that is the subject of the request for special zoning permission has no sides or has open or screened sides.**
- 4. The county must approve a plan which meets the standards of 11.10(l) that will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least 70% of the half of the shoreland setback area that is nearest to the water.**

c) Fishing rafts that are authorized under s. 30.126, Stats.

d) Docks and piers: Docks and piers shall be allowed in accordance with Wisconsin Administrative Code NR 326 and any local provisions.

e) Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in diameter and satellite earth station antennas that are 2 meters or less in diameter.

f) Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pumphouse covers, private on-site wastewater treatment systems that comply with ch. Comm 83, and other utility structures that have no feasible alternative location outside of the minimum setback and that employ best management practices to infiltrate or otherwise control storm water runoff from the structure.

g) The Zoning Administrator may issue a zoning permit for stairways, walkways and lifts, at less than seventy-five (75) feet from the ordinary high-water mark, that are deemed necessary by the Zoning Administrator due to steep, rocky, unstable or wet sites that provides reasonable access to the water, if the following provisions and conditions are met:

1. Canopies, roofs and sides are prohibited. Open railings may be provided for safety reasons.
2. A maximum width of four (4) feet, measured between railings, is allowed for stairways, walkways, or lifts. Landings may not exceed forty (40) square feet in size, and have no more than one landing for every 10 feet of elevation, including a landing at the top and bottom of the stairway. (i.e. 1 landing for 10 feet of elevation, 2 landings for 20 feet of elevation, etc.)
3. Only one (1) stairway or walkway is allowed on a lot except a lift may be allowed as a 2nd access only if it is directly adjacent to a stairway or walkway.
4. Benches, seats, tables, attached to stairways and walkways are prohibited.
5. The stairway, walkway and lift must be located within the viewing and access corridor unless such location is not feasible or it is determined by staff that locations outside the viewing and access corridor better serve the intent of this ordinance.
6. Walkways, stairways, and lifts shall be designed in a matter that does not cause erosion and will minimize storm water runoff. Vegetation shall be established upon completion and shall be maintained, to stabilize all land disturbed during the construction or placement of the walkway, stairway, or lift.
7. Public parks and institutions may be allowed one (1) walkway or stairway per 500 feet of linear frontage along the navigable waterway.
8. Permit shall meet the requirements of Section 11.10(i).

h) Access Ramp to Navigable Waters: The Zoning Administrator may issue a zoning permit if the following provisions and conditions are met:

1. **Public and Commercial Access Ramps to Navigable Waters.**
 - a. Conditional Use permit required.
 - b. Must be located in the Waterfront or Natural Resource Zone.
 - c. Proposed ramp size will be reviewed by the Committee to determine whether the size is appropriate for existing site conditions.
 - d. Must meet all other applicable floodplain and wetland regulations.
 - e. As part of the conditional use process, the Planning and Zoning Committee will review the proposed site plan for the ramp, including but not limited to, parking lot location, lighting, signage for the proposed use, retention areas, and any shoreland buffer restoration requirements as part of the approval process.
2. **All Other Access Ramps to Navigable Waters.**
 - a. Only one (1) ramp is allowed per lot.
 - b. The area of the proposed ramp shall not exceed eight (8) feet in width or length
 - c. The ramp shall be located in the viewing and access corridor.
 - d. The ramp shall only be constructed using vegetated turf block or vegetation. Vegetation must be established and maintained above the ordinary high-water mark. Hard surfaced ramps are prohibited. "Hard surface" includes, but is not limited to, areas of compaction where vegetation cannot grow such as gravel, sand, concrete or bare soil.
 - e. A permit shall be obtained from the Wisconsin Department of Natural Resources and any other applicable governmental agency, if applicable.
 - f. Ramps installed on private property shall only be used by the riparian owner.
 - g. Ramps shall be designed in a manner that does not cause erosion and will minimize storm water runoff. Vegetation shall be established and maintained.
 - h. All land disturbed during the construction or placement of the ramp, shall be stabilized and erosion control measures must be installed and maintained.
3. **REDUCED PRINCIPAL STRUCTURE SETBACK.** (NR 115.05(1)(b)1.) Existing development pattern means that principal structures exist within 250 feet of the proposed principal structure in both directions along the shoreline. Where there is an existing development pattern, the shoreland setback for a proposed principal structure may be reduced to the average shoreland setback of the principal structure on each adjacent lot within 250 feet of the proposed principle structure. The shoreland setback may not be reduced to less than 35-feet from the ordinary high-water mark of any navigable waters. A permit under this section must meet requirements of section 11.10(l).

g) VEGETATION (NR 115.05(1)(c))

1. **PURPOSE.** (NR 115.05(1)(c)1.) To protect natural scenic beauty, fish and wildlife habitat, and water quality, a county shall regulate removal of vegetation in shoreland areas, consistent with the following: The county shall establish ordinance standards that consider sound forestry and soil conservation practices and the effect of vegetation removal on water quality, including soil erosion, and the flow of effluents, sediments and nutrients.
2. **ESTABLISHMENT OF A VEGETATIVE BUFFER ZONE.** (NR 115.05(1)(c)2.) To protect water quality, fish and wildlife habitat and natural scenic beauty, and to promote preservation and restoration of native vegetation, the county ordinance shall designate land that extends from the ordinary high water mark to a minimum of 35 feet inland as a vegetative buffer zone and prohibit removal of vegetation in the vegetative buffer zone except as follows:

Note: Filling, grading, dredging, ditching and excavating within the shoreland buffer is considered by this ordinance to be removal of vegetation.

a) The County may allow routine maintenance of vegetation as follows:

1. Dead or diseased trees and shrubs, when removed, shall be replaced with native vegetation, or cultivars of native stock, that is equally effective in fulfilling the purpose of this section. Replacement with native vegetation shall occur within 30 days of removal. Replacement vegetation shall be maintained thereafter.
2. Noxious and invasive trees, shrubs and plants may be removed provided that they are replaced with native vegetation, or cultivars of native stock, that is equally effective in fulfilling the purpose of this section. Replacement with native vegetation shall occur within 30 days of removal. Replacement vegetation shall be maintained thereafter.
3. Routine pruning of trees or shrubs to improve their health and vigor, provide a filtered view of the navigable waterway or to prevent property damage is allowed. Excessive pruning that jeopardizes the health of the tree or shrub shall be prohibited.
4. Landscaping and lawns that extend into the shoreland buffer area prior to the adoption of this ordinance may be maintained until such a time that shoreland buffers are required. Existing lawns and landscaping shall not be extended or expanded in the shoreland buffer area.
5. Filling, grading, lagooning, dredging, ditching and excavating less than 250 sq. ft of the shoreland buffer.
6. Existing agricultural practices are exempt from Section 11.10 (g)2.
7. Only selective cutting of trees and shrubs is allowed in the viewing and access corridor provided:
 - a. For lots equal to or greater than 100 feet in width at the ordinary high-water mark, the viewing and access corridor shall not exceed thirty (30) feet.

- b. For lots less than 100 feet in width at the ordinary high-water mark, the maximum width of the view and access corridor shall not exceed thirty (30) percent of the lot width at the ordinary high-water mark
- c. Ground cover vegetation or lawn shall be preserved or established and maintained to effectively control erosion and minimize runoff.
- d. The viewing and access corridor shall not be designated in an area where 75% or more of the trees and shrubs exist within the shoreland buffer area.
- e. When the property owner applies for a Zoning and Land Use Permit on a parcel which includes land within 75 feet of the ordinary high-water mark, a separate Zoning and Land Use Permit shall identify the location of the viewing and access corridor for that property.

3. **ADDITIONAL VEGETATIVE BUFFER ZONE MANAGEMENT:** Alternatives to the vegetative buffer zone management and maintenance listed in 11.10 (g)2 may be permitted by the Planning and Zoning Committee by issuance of a conditional use permit and a zoning permit for Additional Shoreland Buffer Zone Management. Notice for this conditional use shall be as described in Section 11.15 (Notice requirements) of this ordinance except the notice of public hearing shall be mailed by first class postage to all persons listed in the Jefferson County Land Information Office as of the date of the petition as owning property within two hundred fifty (250) feet of the exterior boundary of the parcel for which the conditional use is requested. The Planning and Zoning Committee may grant a permit under this section, providing:

- a) A restoration plan submitted, reviewed and approved meeting the requirements of 11.10 (l).
- b) The plan requested shall not cause undue sedimentation, destruction of scenic quality, will not increase sedimentation or harm water quality or cause undue destruction of fish and wildlife habitat.
- c) The plan will be reviewed according to the practices described in the "Wisconsin Forestry Best Management Practices for Water Quality Field Manual" and "Wisconsin Best Construction Management Practices" and must fulfill the intent and purpose of Section 11.10 (g)2 of this ordinance.
- d) The plan shall provide substantial shielding from the water of dwellings, accessory structures and parking areas. A statement from the applicant of the purpose and intent of the proposed project outside of the viewing and access corridor and how the proposed plan accomplishes the purpose of this section.

4. **CUTTING MORE THAN 35 FEET INLAND** From the inland edge of the 35 foot area to the outer limits of the shoreland, the cutting of vegetation shall be allowed when accomplished using accepted forest management and soil conservation practices which protect water quality.

h) **FILLING, GRADING, LAGOONING, DREDGING, DITCHING AND EXCAVATING**

(NR115.05(1)(d)) Filling, grading, lagooning, dredging, ditching and excavating may be

permitted only in accordance with the provisions of s. NR 115.04, the requirements of ch. 30, Stats., and other state and federal laws where applicable, and only if done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat and natural scenic beauty.

1. **GENERAL STANDARDS.** Filling, grading, lagooning, dredging, ditching or excavating which does not require a permit under section 11.10(h)2 may be permitted in the shoreland area provided that:

- a) It is done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat.
- b) Filling, grading, lagooning, dredging, ditching or excavating in a shoreland-wetland district meets the requirements of sections 11.10 (c)3(b) and 11.10(c)3(c) of this ordinance.
- c) All applicable federal, state and local authority is obtained in addition to a permit under this ordinance.
- d) Any fill placed in the shoreland area is protected against erosion by the use of riprap, vegetative cover or a bulkhead.

2. **PERMIT REQUIRED.** Except as provided in section 11.10(h)3, a permit is required:

- a) For any filling or grading of any area which is within 300 feet landward of the ordinary highwater mark of navigable water and which has surface drainage toward the water and on which there is either:
 1. Any filling or grading on slopes of more than 20%.
 2. Filling or grading of more than 1,000 sq. ft. on slopes of 12%-20%.
 3. Filling or grading of more than 2,000 sq. ft. on slopes less than 12%.
 4. Filling or grading more 250 sq. ft. of the shoreland buffer, on all slopes.
 5. When these activates fall within 75 feet of the OHWM they require mitigation according to 11.10(l).
- b) For any construction or dredging commenced on any artificial waterway, canal, ditch, lagoon, pond, lake or similar waterway which is within 300 feet landward of the ordinary highwater mark of a navigable body of water or where the purpose is the ultimate connection with a navigable body of water.

3. **SOIL CONSERVATION PRACTICES AND AGRICULTURAL DRAINAGE MAINTENANCE.**

- a) Soil conservation practices such as tiled terraces, runoff diversions and grassed waterways used for erosion control shall not require a permit under section 11.10(h)2 when designed and constructed to Natural Resources Conservation Service technical standards.
- b) The maintenance of existing agricultural drainage systems shall be permitted in conformity with the following construction standards:

1. The maintenance dredging of farm drainage ditches is limited to reestablishing the original ditch cross section unless a special exception permit under section 11.10(h)2(b) is obtained.
 2. Ditch banks shall be constructed at a slope of 2 horizontal to 1 vertical (50% grade) or flatter.
 3. Ditch banks shall be maintained in a sod cover and free of woody vegetation.
 4. A 10 foot wide buffer strip of untilled, ungrazed sod cover shall be maintained adjacent to the ditch bank.
4. **PERMIT CONDITIONS.** In granting a permit under section 11.10(h)2, the County shall attach the following conditions, where appropriate, in addition to those provisions specified in sections 11.10(m)2 or 11.10(m)4.
- a) The smallest amount of bare ground shall be exposed for as short a time as feasible.
 - b) Temporary ground cover (such as mulch or jute netting) shall be used and permanent vegetative cover shall be established.
 - c) Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods shall be used to prevent erosion.
 - d) Lagoons shall be constructed to avoid fish trap conditions.
 - e) Fill shall be stabilized according to accepted engineering standards.
 - f) Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain.
 - g) Channels or artificial watercourses shall be constructed with side slopes of two (2) units horizontal distance to one (1) unit vertical or flatter which shall be promptly vegetated, unless bulkheads or riprap are provided.
5. **Special Provisions.** Upon consideration of all the factors, the Zoning Administrator may attach such conditions, in addition to those required elsewhere in this ordinance, that he deems necessary in furthering the purposes of this ordinance. Violation of any of these conditions shall be deemed a violation of this ordinance. Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover, increased setbacks and yards; specified sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; locations of piers, docks, parking and signs; type of construction or any other requirements necessary to fulfill the purpose and intent of this ordinance.

i) **IMPERVIOUS SURFACE STANDARDS. (NR 115.05(1)(e))**

1. **PURPOSE.** Establish impervious surface standards to protect water quality and fish and wildlife habitat and to protect against pollution of navigable waters. County impervious surface standards shall apply to the construction, reconstruction, expansion, replacement or relocation of any impervious surface within 300 feet of the ordinary high-water mark of any navigable waterway, and shall require all of the following.

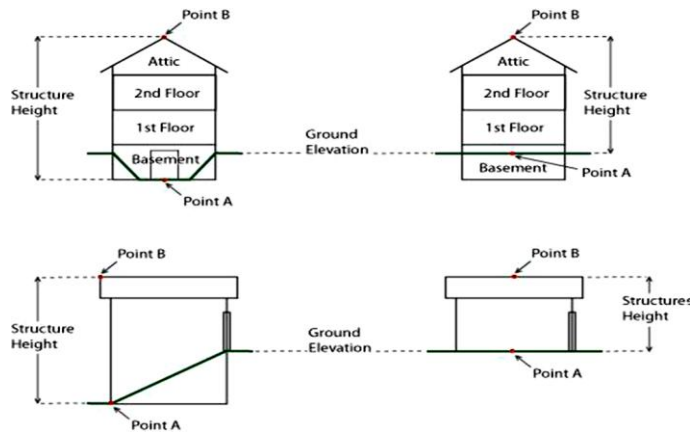
2. **CALCULATION OF IMPERVIOUS SURFACE.** (NR 115.05(1)(e)1.) Percentage of impervious surface shall be calculated by dividing the surface area of existing and proposed impervious surfaces on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark by the total surface area of that portion of the lot or parcel that is within 300 feet of the ordinary high-water mark, and multiplied by 100.
3. **IMPERVIOUS SURFACE STANDARD.** (NR 115.05(1)(e)2.) Allow up to 15% impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark.
4. **MAXIMUM IMPERVIOUS SURFACE.** (NR 115.05(1)(e)3.) Allow more than 15% impervious surface but not more than 30% impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark.

a) A permit can be issued for development that exceeds 15% impervious surface but not more than 30% impervious surfaces with a mitigation plan that meets the standards found in section 11.10(l).

5. **EXISTING IMPERVIOUS SURFACES.** (NR 115.05(1)(e)4.) For existing impervious surfaces that were lawfully placed when constructed but that do not comply with the impervious surface standard in section 11.10(i)3 or the maximum impervious surface standard in section 11.10(i)4, the property owner may do any of the following:
 - a) maintain and repair the existing impervious surfaces;
 - b) replace existing impervious surfaces with similar surfaces within the existing building envelope;
 - c) relocate or modify an existing impervious surface with similar or different impervious surface, provided that the relocation or modification does not result in an increase in the percentage of impervious surface that existed on the effective date of the county shoreland ordinance, and the impervious surface meets the applicable setback requirements in s. Wis. Admin. Code NR 115.05 (1) (b).
 - d) This section of the ordinance shall not be construed to supersede other provisions in the county shoreland ordinance. Maintenance, reconstruction, relocation and expansion of existing structures must comply with other provisions in the county shoreland ordinance, the shoreland setback standards in sections 11.10(f)1 or 11.10(f)3 and the nonconforming structure provisions of sections 11.10(k).

j) **HEIGHT.** (NR 115.05(1)(f)) To protect and preserve wildlife habitat and natural scenic beauty, on or after, a county may not permit any construction that results in a structure taller than 35 feet within 75 feet of the ordinary high-water mark of any navigable waters.

1. Structure height is the measurement of the vertical line segment starting at the lowest point of any exposed wall and it's intersect with the ground (Point A in the following diagram) to a line horizontal to the highest point of a structure (Point B in the following diagram), unless specified under other sections of this code.



k) NONCONFORMING USES AND STRUCTURES. (NR 115.05(1)(g))

1. **PURPOSE.** To protect water quality, fish and wildlife habitat, and natural scenic beauty, some control is needed over the modification and reconstruction of these structures.
2. **GENERAL RULE FOR NONCONFORMING USES AND STRUCTURES.** Pursuant to s. 59.692(1s), Stats.,
 - a) Restrictions that are applicable to damaged or destroyed nonconforming structures and that are contained in an ordinance enacted under this s. 59.692 stats. may not prohibit the restoration of a nonconforming structure if the structure will be restored to the size, subject to par. (b), location, and use that it had immediately before the damage or destruction occurred, or impose any limits on the costs of the repair, reconstruction, or improvement if all of the following apply:
 1. The nonconforming structure was damaged or destroyed after October 14, 1997.
 2. The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.

Note: Floodplain regulations under s. 87.3 stats., NR116, 44.CFR part 60, and Jefferson County Floodplain Ordinance No. 14 provide for additional restrictions and limitations regarding repair or reconstruction of damaged or substantially damaged structures due to flood.
 - b) A land owner has demonstrated by a permit application and approval the scope, nature, extent of the damage done as well as the dimensions of the damaged structure and proposed restoration.
 - c) An ordinance enacted under this section to which par. (1) applies shall allow for the size of a structure to be larger than the size it was immediately before

the damage or destruction if necessary for the structure to comply with applicable state or federal requirements.

3. **DISCONTINUED NONCONFORMING USE. (NR 115.05(1)(g)3.)** If a nonconforming use is discontinued for a period of 12 months, any future use of the building, structure or property shall conform to the ordinance.
4. **MAINTENANCE OF NONCONFORMING PRINCIPAL STRUCTURE. (NR 115.05(1)(g)4.)**
An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per section 11.10(f)1 may be maintained and repaired within its existing building footprint. Maintenance and repair includes such activities as interior remodeling, plumbing, insulation, and replacement of windows, doors, siding, or roof.
5. **VERTICAL EXPANSION OF NONCONFORMING PRINCIPAL STRUCTURE. (NR 115.05(1)(g)5.)** An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per section 11.10(f)1 may be expanded vertically, provided that all of the following requirements are met:
 - a) The use of the structure has not been discontinued for a period of 12 months or more.
 - b) The existing principal structure is at least 35 feet from the ordinary high-water mark.
 - c) Vertical expansion is limited to the height allowed in section 11.10(j).
 - d) The county shall issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in section 11.10(l).
 - e) All other provisions of the shoreland ordinance shall be met.
6. **EXPANSION OF A NONCONFORMING PRINCIPAL STRUCTURE BEYOND SETBACK. (NR 115.05(1)(g)5m.)** An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback under section 11.10(f)1, may be expanded horizontally, landward or vertically provided that the expanded area meets the building setback requirements per section 11.10(f)1 and that all other provisions of the shoreland ordinance are met. A mitigation plan is not required solely for expansion under this paragraph, but may be required per section 11.10(i).
7. **REPLACEMENT OR RELOCATION OF NONCONFORMING PRINCIPAL STRUCTURE. (NR 115.05(1)(g)6.)** An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per section 11.10(f)1 may be replaced or relocated on the property provided all of the following requirements are met:
 - a) The use of the structure has not been discontinued for a period of 12 months or more.

- b) The existing principal structure is at least 35 feet from the ordinary high-water mark.
- c) No portion of the replaced or relocated structure is located any closer to the ordinary high-water mark than the closest point of the existing principal structure.
- d) The county determines that no other location is available on the property to build a principal structure of a comparable size to the structure proposed for replacement or relocation that will result in compliance with the shoreland setback requirement per section 11.10(f)1.
- e) The county shall issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in section 11.10(l). include enforceable obligations of the property owner to establish or maintain measures that the county determines are adequate to offset the impacts of the permitted expansion on water quality, near-shore aquatic habitat, upland wildlife habitat and natural scenic beauty. The mitigation measures shall be proportional to the amount and impacts of the replaced or relocated structure being permitted. The obligations of the property owner under the mitigation plan shall be evidenced by an instrument recorded in the office of the County Register of Deeds.
- f) The county shall issue a permit that requires that all other structures on the lot or parcel that do not comply with the shore-land setback requirement per section 11.10(f)1 and are not exempt under section 11.10(f)2 to be removed by the date specified in the permit.
- g) All other provisions of the shoreland ordinance shall be met.

8. **MAINTENANCE OF NONCONFORMING ACCESSORY STRUCTURES.** Accessory structures that were legally constructed before the adoption of this chapter may be maintained and repaired but may not be expanded or rebuilt unless authorized by s. 59.692(1s) Wisconsin Stats. Or unless they are made to conform to all other provisions of this ordinance.

9. **WET BOATHOUSES.** (NR 115.05(1)(g)7.) The maintenance and repair of nonconforming boathouses which extend beyond the ordinary high-water mark of any navigable waters shall be required to comply with s. 30.121, Stats.

l) **MITIGATION.** (s. 59.692(1v), Stats, NR 115.05 (1)(e)3., (g)5., (g)6.) When the Zoning Administrator issues a permit or the Planning and Zoning Committee issues a conditional use permit requiring mitigation under the Shoreland Protection Ordinance, the property owner must submit a completed mitigation permit application, that will be reviewed and approved by Zoning Administrator or the Planning and Zoning Committee. The application shall include the following:

- 1. A mitigation plan that describes the proposed restoration measures meeting the following:
 - a) The site plan shall be designed and implemented to restore natural functions lost through development and human activities.

- b) The mitigation measures shall be proportional in scope to the impacts on water quality, near-shore aquatic habitat, upland wildlife habitat and natural scenic beauty.
2. The mitigation plan submitted shall include the dimensions and location of the required restoration including buffer area, viewing and access corridor and/or other mitigation practices proposed. This mitigation plan shall also include the following:
- a) Location of all structure, including but not limited to, paths, stairways, existing retaining walls, decks, patios, existing vegetative cover, impervious surface calculation.
 - b) Location of the viewing and access corridor
 - c) Location of parking.
 - d) Location of ordinary high-water mark and any wetland areas.
 - e) A description of the topography and estimated slope of the property.
 - f) A minimum of four photos of the property. These photos shall include a photo taken from the water, along the shoreline and from the principal structure. If necessary, the Planning and Zoning Department may require additional photographs and/or a site inspection of the property.
 - g) Identify the vegetation to be cut and the size and type of species to be removed, if applicable.
 - h) A list of desired native species appropriate for the site (or cultivars of native species) to include in the restoration area and a schedule for their planting.
 - i) A scaled plot plan showing the placement, size and densities of each species to be planted within the buffer area.
 - j) A narrative description of how the applicant intends to carry out the project including the erosion control measures that will be used during construction. Please include the name and phone number of the landscape architect or consultant, if applicable.
 - k) The Restoration Plan will be reviewed according to United States Department of Agriculture, Natural Resources Conservation Service, Shoreland Habitat Standard and Wisconsin Biology Technical Note 1: Shoreland Habitat within the shoreland buffer area. The plan must fulfill the intent and purpose of Section 11.10(a)3 of this ordinance. The above mentioned guides can be located at <http://www.dnr.state.wi.us/org/water/wm/dsfm/shore/documents/NRCSBioTechNote.pdf> or the Jefferson County Planning and Zoning Department, 320 S. Main St. Rm. 201, Jefferson, WI 53549 (See Table 1 below).

Table 1 Shoreland Buffer Planting Guidelines				
Layer	Woodland Buffer		Prairie Buffer	
	Minimum number of species	Density ³	Minimum number of species	Density ³
Tree Canopy ¹	2	0.5 - 5 per 100 ft. ²	1	0 - 0.2 per 100 ft. ²
Shrub Understory	3	1-4 per 100 ft. ²	2	0.2 - 0.5 per 100 ft. ²

Groundcover Plant plugs ²	3	25-75 per 100 ft. ²	5	50-100 plants per 100 ft. ²
Groundcover seedlings ²	3	4-8 oz. per 1000 sq.ft. Forbs: 2-4 oz per 1000 sq. ft.	5	4-8 oz per 1000 sq. ft. Forbs: 2-4 oz. per 1000 sq. ft.

¹Trees must be greater than 2 feet in height about the root collar.

²The groundcover area shall comprise of a minimum of 30% native grasses.

³ Density requirements will be based upon established existing vegetation and physical characteristics of the property. Shoreland buffers plans must be approved by the Jefferson County Planning and Zoning Department. The buffer shall consist of three (3) layers of vegetation: a tree canopy, a shrub understory, and a groundcover layer.

3. Certification of Completion. Restoration is required to be completed within one (1) year of issuance of the zoning permit but may be extended upon approval of the Zoning Administrator and the Planning and Zoning Committee, the property owner shall complete the required shoreland buffer and shall certify in writing to the Administrator the required shoreland buffer has been completed. As part of the certification, the property owner shall submit photos documenting the mitigation measures and the Jefferson County Planning and Zoning Department staff may conduct an on-site compliance inspection.

4. Subsequent Development. Subsequent zoning permit applications may require additional mitigation.

5. An implementation schedule and enforceable obligation on the property owner to establish and maintain the mitigation measures.

a) The enforceable obligations shall be evidenced by an instrument recorded in the office of the Register of Deeds prior to issuance of the permit.

6. Non-riparian Mitigation

a) For permit requiring mitigation on a non-riparian lot, the owner shall submit a mitigation plan unitizing alternate methods of runoff control which may include, but not limited to the use of rain gardens, vegetation plants, infiltration structures, derision, detention ponds, previous conversions, or other acceptable practices demonstrating compliance with this section.

m) **ADMINISTRATIVE PROVISIONS.** (NR 115.23)

1. ZONING ADMINISTRATOR. (s. 59.18, Wis. Stats., NR 115.05(4)) The zoning administrator shall have the following duties and powers.

a) A system of permits for new construction, development, reconstruction, structural alteration or moving of buildings and structures. A copy of applications shall be required to be filed in the office of the county zoning administrator.

- b) Regular inspection of permitted work in progress to insure conformity of the finished structures with the terms of the ordinance.
- c) A variance procedure which authorizes the board of adjustment to grant such variance from the terms of the ordinance as will not be contrary to the public interest where, owing to special conditions and the adoption of the shoreland zoning ordinance, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship.
- d) A conditional use procedure.
- e) The county shall keep a complete record of all proceedings before the board of adjustment, zoning agency and planning agency.
- f) Written notice to the appropriate office of the Department at least 10 days prior to any hearing on a proposed variance, special exception or conditional use permit, appeal for a map or text interpretation, map or text amendment, and copies of all proposed land divisions submitted to the county for review under section 11.10(d). Upon request of the Department a county shall provide to the appropriate office a copy of any permit issued under section 11.10(m)2.
- g) Submission to the appropriate office of the Department, within 10 days after grant or denial, of copies of any permit, any decision on a variance, special exception or conditional use permit, or appeal for a map or text interpretation, and any decision to amend a map or text of an ordinance.
- h) Mapped zoning districts and the recording, on an official copy of such map, of all district boundary amendments.
- i) The establishment of appropriate penalties for violations of various provisions of the ordinance, including forfeitures. Compliance with the ordinance shall be enforceable by the use of injunctions to prevent or abate a violation, as provided in s. 59.69 (11), Stats.
- j) The prosecution of violations of the shoreland ordinance.
- k) Upon consideration of all the factors, the Zoning Administrator may attach such conditions, in addition to those required elsewhere in this ordinance, that he deems necessary in furthering the purposes of this ordinance. Violation of any of these conditions shall be deemed a violation of this ordinance. Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover, increased setbacks and yards; specified sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; locations of piers, docks, parking and signs; type of construction or any other requirements necessary to fulfill the purpose and intent of this ordinance.

2. PERMITS. (NR 115.05(4))

- a) WHEN REQUIRED. Except where another section of this ordinance specifically exempts certain types of development from this requirement, a permit shall be obtained from the zoning administrator or board of adjustment/committee before any new development.
- b) APPLICATION. An application for a permit shall be made to the zoning administrator upon forms furnished by the county and shall include for the

purpose of proper enforcement of these regulations, the following information:

1. Name and address of applicant and property owner.
2. Legal description of the property and type of proposed use.
3. A to scale drawing of the dimensions of the lot and location of all existing and proposed structures and impervious surfaces relative to the lot lines, center line of abutting highways and the ordinary high-water mark of any abutting waterways.
4. Location and description of any existing private water supply or sewage system or notification of plans for any such installation.
5. Plans for appropriate mitigation when required.
6. Imperious surface calculation according to 11.10(i).
7. Payment of the appropriate fee.
8. Additional information required by the zoning administrator.

c) EXPIRATION OF PERMIT. Zoning permits shall expire 12 months from date issued if no substantial work has commenced.

3. CONDITIONAL USE PERMITS

a) APPLICATION FOR A CONDITIAL USE PERMIT. Any use listed as a conditional use in this ordinance shall be permitted only after an application has been submitted to the zoning administrator and a conditional use permit has been granted by the Planning and Zoning Committee. To secure information upon which to base its determination, the Planning and Zoning Committee may require the applicant to furnish, in addition to the information required for a zoning permit, the following information:

1. A plan of the area showing surface contours, soil types, ordinary high-water marks, ground water conditions, subsurface geology and vegetative cover.
2. Location of buildings, parking areas, traffic access, driveways, walkways, piers, open space and landscaping.
3. Plans of buildings, sewage disposal facilities, water supply systems and arrangement of operations.
4. Specifications for areas of proposed filling, grading, lagooning or dredging.
5. Other pertinent information necessary to determine if the proposed use meets the requirements of this ordinance.
6. Rationale for why the proposed conditional use meets all of the conditional use criteria listed in the ordinance.

b) NOTICE, PUBLIC HEARING AND DECISION. (NR 115.05(4)) Before deciding whether to grant or deny an application for a conditional use permit, the planning and zoning committee shall hold a public hearing. Notice of such public hearing, specifying the time, place and matters to come before the planning and zoning committee, shall be given as a Class 2

notice under ch. 985, Wis. Stats. Such notice shall be provided to the appropriate office of the Department at least 10 days prior to the hearing. The planning and zoning committee shall state in writing the grounds for granting or denying a conditional use permit.

c) **13.33 STANDARDS APPLICABLE TO ALL CONDITIONAL USE.** In deciding a conditional use application, the planning and zoning committee shall evaluate the effect of the proposed use upon:

1. The maintenance of safe and healthful conditions.
2. The prevention and control of water pollution including sedimentation.
3. Compliance with local floodplain zoning ordinances and opportunity for damage to adjacent properties due to altered surface water drainage.
4. The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
5. The location of the site with respect to existing or future access roads.
6. The need of the proposed use for a shoreland location.
7. Its compatibility with uses on adjacent land.
8. The amount of liquid and solid wastes to be generated and the adequacy of the proposed disposal systems.
9. Location factors under which:
 - a. Domestic uses shall be generally preferred;
 - b. Uses not inherently a source of pollution within an area shall be preferred over uses that are or may be a pollution source;
 - c. Use locations within an area tending to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility. Additional standards such as parking, noise, etc...maybe refer to the applicable part of their ordinance.

d) **CONDITIONS ATTACHED TO CONDITIONAL USES.** Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking and signs; and type of construction. Upon consideration of the factors listed above, the planning and zoning committee shall attach such conditions, in addition to those required elsewhere in this ordinance, as are necessary to further the purposes of this ordinance. Violations of any of these conditions shall be deemed a violation of this ordinance.

In granting a conditional use permit, the planning and zoning committee may not impose conditions which are more restrictive than any of the specific standards in the ordinance. Where the ordinance is silent as to the extent of restriction, the board may impose any reasonable permit conditions to affect the purpose of this ordinance.

e) **RECORDING.** (NR 115.05(4)(g), (h)) When a conditional use permit is approved, an appropriate record shall be made of the land use and structures permitted. Such permit shall be applicable solely to the structures, use and property so described. A copy of any decision on a conditional use permit shall be provided to the appropriate office of the Department within 10 days after it is granted or denied.

f) **REVOCATION.** Where the conditions of a conditional use permit are violated, the special exception permit shall be revoked.

4. **VARIANCES.** (s. 59.694(7), Wis. Stats.)

a) The board of adjustment may grant upon appeal a variance from the standards of this ordinance where an applicant convincingly demonstrates that:

1. literal enforcement of the provisions of the ordinance will result in unnecessary hardship on the applicant;
2. the hardship is due to special conditions unique to the property; and
3. is not contrary to the public interest.

b) **NOTICE, HEARING AND DECISION.** (s. 59.694(6), Wis. Stats.) Before deciding on an application for a variance, the board of adjustment shall hold a public hearing. Notice of such hearing specifying the time, place and matters of concern, shall be given a Class 2 notice under ch. 985, Wis. Stats. Such notice shall be provided to the appropriate office of the Department at least 10 days prior to the hearing. The board shall state in writing the reasons for granting or refusing a variance and shall provide a copy of such decision to the appropriate Department office within 10 days of the decision.

c) **BOARD OF ADJUSTMENT.** (s. 59.694 Wis. Stats.) The county executive, county administrator or chair of the county board shall appoint a board of adjustment consisting of 3 or 5 members under s. 59.694, Wis. Stats. The county board shall adopt such rules for the conduct of the business of the board of adjustment as required by s. 59.694(3), Wis. Stats.

d) **POWERS AND DUTIES.** (s. 59.694 Wis. Stats.)

1. The board of adjustment shall adopt such additional rules as it deems necessary and may exercise all of the powers conferred on such boards by s. 59.694, Wis. Stats.
2. It shall hear and decide appeals where it is alleged there is error in any order, requirements, decision or determination made by an administrative official in the enforcement or administration of this ordinance.
3. It shall hear and decide applications for special exception permits pursuant to section 11.10(m)3.

4. It may grant a variance from the standards of this ordinance pursuant to section 11.10(m)4.
5. In granting a variance, the board may not impose conditions which are more restrictive than any of the specific standards in the ordinance. Where the ordinance is silent as to the extent of restriction, the board may impose any reasonable permit conditions to effect the purpose of this ordinance.

e) **APPEALS TO THE BOARD.** (s. 59.694 Wis. Stats.) Appeals to the board of adjustment may be made by any person aggrieved or by an officer, department, board or bureau of the county affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be made within 30 days, as provided by the rules of the board, by filing with the officer whose decision is in question, and with the board of adjustment, a notice of appeal specifying the reasons for the appeal. The zoning administrator or other officer whose decision is in question shall promptly transmit to the board all the papers constituting the record concerning the matter appealed.

f) **HEARING APPEALS AND APPLICATIONS FOR VARIANCES** (s. 59.694(6), Wis. Stats.)

1. The board of adjustment shall fix a reasonable time for a hearing on the appeal or application. The board shall give public notice thereof by publishing a Class 2 notice under ch. 985, Wis. Stats, specifying the date, time and place of the hearing and the matters to come before the board. Notice shall be mailed to the parties in interest. Written notice shall be given to the appropriate office of the Department at least 10 days prior to hearings on proposed shoreland variances, special exceptions (conditional uses), and appeals for map or text interpretations.
2. A decision regarding the appeal or application shall be made as soon as practical. Copies of all decisions on shoreland variances, conditional uses and appeals for map or text interpretations shall be submitted to the appropriate office of the Department within 10 days after they are granted or denied.
3. The final disposition of an appeal or application to the board of adjustment shall be in the form of a written resolution or order signed by the chairman and secretary of the board. Such resolution shall state the specific facts which are the basis of the board's determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or

in part, dismiss the appeal for lack of jurisdiction or prosecution or grant the application.

4. At the public hearing, any party may appear in person or by agent or by attorney.

n) **CHANGES AND AMENDMENTS.** The county board may from time to time, alter, supplement or change the regulations contained in this ordinance in accordance with the requirements of s. 59.69(5)(e), Wis. Stats, ch. NR 115, Wis. Adm. Code and this ordinance where applicable.

1. **AMENDMENTS.** to this ordinance may be made on petition of any interested party as provided in s. 59.69(5), Wis. Stats.
2. **SHORELAND WETLAND MAP AMENDMENTS.** (NR 115.04) Every petition for a shoreland-wetland map amendment filed with the county clerk shall be referred to the county zoning agency. A copy of each petition shall be provided to the appropriate office of the Department within 5 days of the filing of the petition with the county clerk. Written notice of the public hearing to be held on a proposed amendment shall be provided to the appropriate office of the Department at least 10 days prior to the hearing.
3. A copy of the county board's decision on each proposed amendment shall be forwarded to the appropriate office of the Department within 10 days after the decision is issued.

o) **ENFORCEMENT AND PENALTIES** (NR 115.05(4)(j)) Any development, any building or structure constructed, moved or structurally altered, or any use established after the effective date of this ordinance in violation of the provisions of this ordinance, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The zoning administrator or the county zoning agency shall refer violations to the district attorney or corporation counsel who shall expeditiously prosecute violations. Any person, firm, association or corporation who violates or refuses to comply with any of the provisions of this ordinance shall be subject to a forfeiture of not less than twenty-five (\$25.00) dollars nor more than five thousand (\$5000.00) dollars per offense, together with the taxable costs of action. Each day which the violation exists shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated pursuant to s. 59.69(11), Wis. Stats.

p) **DEFINITIONS.**

For the purpose of administering and enforcing this ordinance, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural number; and words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distances unless otherwise specified shall be measured horizontally.

The following terms used in this ordinance mean:

“Access and viewing corridor” (NR 115.03(1d)) means a strip of vegetated land that allows safe pedestrian access to the shore through the vegetative buffer zone.

“Agricultural practice” Beekeeping, commercial feedlots, dairying; egg production; floriculture; fish or fur farming; grazing; livestock raising; orchards; vegetable farming, poultry raising; raising of grain, grass, mint and seed crops; raising of fruits, nuts and berries; sod farming; owning land which is enrolled in the conservation reserve program under 16 USC 3831 to 3836.

“Boathouse” (NR 115.03(1h)) means a permanent or temporary structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of these structural parts.

“Building envelope” (NR 115.03(1p)) means the three dimensional space within which a structure is built.

“County zoning agency” (NR 115.03(2)) means that committee or commission created or designated by the county board under s. 59.69(2)(a), Wis. Stats, to act in all matters pertaining to county planning and zoning.

“Department” (NR 115.03(3)) means the Department of Natural Resources.

“Existing development pattern” (NR 115.03(3m)) means that principal structures exist within 250 feet of a proposed principal structure in both directions along the shoreline.

“Floodplain” (NR 115.03(4)) means the land which has been or may be hereafter covered by flood water during the regional flood. The floodplain includes the floodway and the flood fringe as those terms are defined in ch. NR 116, Wis. Adm. Code.

“Generally accepted forestry management practices” (NR 1.25(2)(b)) means forestry management practices that promote sound management of a forest. Generally accepted forestry management practices include those practices contained in the most recent version of the department publication known as Wisconsin Forest Management Guidelines and identified as PUB FR-226.

“Houseboat” A water craft intended for temporary occupancy. Licensed or unlicensed Houseboats on land shall not be used for human habitation unless they meet all zoning, floodplain and sanitation requirements and receive all permits as a single family residence.

“Impervious surface” (NR 115.03(4g)) means an area that releases as runoff all or a majority of the precipitation that falls on it. “Impervious surface” excludes frozen soil but includes rooftops, sidewalks, driveways, parking lots, and streets unless specifically designed, constructed, and maintained to be pervious.

“Invasive” Non-indigenous species or strains that become established in natural plant communities and wild areas, replacing native vegetation.

“Lift” A mechanical device, either temporary or permanent, containing a mobile open top car, including hand or guard rails, a track upon which the open top car move, and a mechanical device, which may or may not be motorized, to provide power to the open top car.

“Maintenance and repair” (NR 115.05(1)(g)4.) includes such activities as interior remodeling, painting, decorating, paneling, plumbing, insulation, and replacement of windows, doors, wiring, siding, roof and other nonstructural components and the repair of cracks in foundations, sidewalks, walkways and the application of waterproof coatings to foundations.

“Mitigation” (NR 115.03(4r)) means balancing measures that are designed, implemented and function to restore natural functions and values that are otherwise lost through development and human activities.

“Navigable waters” (NR 115.03(5)) means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under s. 281.31(2)(d), Wis. Stats, notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under s. 59.692, Wis. Stats, and ch. NR 115, Wis. Adm. Code, do not apply to lands adjacent to farm drainage ditches if:

- (1) Such lands are not adjacent to a natural navigable stream or river.
- (2) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
- (3) Such lands are maintained in nonstructural agricultural use.

“Noxious” As defined by Section 66.0407(1)(6) of the Wisconsin State Statutes.

“Ordinary high-water mark” (NR 115.03(6)) means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.

“Public or Private Beach Maintenance” Maintenance of a public or private beach which is the principal use of a property and which serves an established lake association, property association or subdivision association of 25 people or more on a regular basis shall be permitted in the shoreland with the issuance of a zoning permit. As part of the zoning permit review, the applicant shall demonstrate the need for maintenance, proposed type of maintenance (i.e. said fill, grading, bank restoration, etc.) and demonstrate compliance with the Jefferson County floodplain ordinance and any DNR requirements. Section 11.10 (h) requiring shoreland restoration shall not apply to a permit issued for beach maintenance. Only existing beach area may be issued a maintenance permit and no expansion of an existing beach is permitted.

“Regional Flood” the one percent (1%) annual chance flood. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE. (NR 115.03(7)) defines regional flood as: means a

flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics, once in every 100 years.

“Routine maintenance of vegetation” (NR 115.03(7m)) means normally accepted horticultural practices that do not result in the loss of any layer of existing vegetation and do not require earth disturbance.

“Selective Cutting” The removal of selected trees and shrubs throughout the range of sizes at regular intervals, either singularly or in small groups but not to exceed 75% of existing trees and shrubs, leaving uniform distribution of trees and shrubs.

“Shoreland” (NR 115.03(8)) means lands within the following distances from the ordinary highwater mark of navigable waters: 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

“Shoreland Buffer” A thirty-five (35) foot strip of vegetation running parallel to ordinary high water, and extending inland from the ordinary high-water mark. If slopes are less than 20%, then the shoreland buffer is measured along the land surface and further described by 11.10(g)2.

“Shoreland setback” also known as the **“Shoreland setback area”** in s. 59.692(1)(bn) means an area in a shoreland that is within a certain distance of the ordinary high-water mark in which the construction or placement of buildings or structures has been limited or prohibited under an ordinance enacted under section 59.692, Wis. Stats.

“Shoreland-wetland district” (NR 115.03(9)) means the zoning district, created as a part of this shoreland zoning ordinance, comprised of shorelands that are designated as wetlands on the wetland maps which have been adopted and made a part of this ordinance.

“Structure” Any man-made object with form, shape & utility on the ground or attached to something on the ground. Structures include, but not limited to buildings, sheds, silos, signs, carports, swimming pools, decks, patios, retaining walls and gazebos.

“Unnecessary hardship” (NR 115.03(11)) means that circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this ordinance.

“Viewing and Access Corridor” A vegetated strip of land extending through the shoreland buffer that provides access to the waterfront and a filtered view of the water and as further described by 11.10(g)2.

“Wetlands” (NR 115.03(13)) means those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.